

HOUSE BILL 988

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2lr0596

By: **Delegates Waldstreicher and Hucker**

Introduced and read first time: February 10, 2012

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection – Recalls of Consumer Goods – Notice**

3 FOR the purpose of requiring certain merchants that issue certain customer loyalty
4 cards to consumers to notify a consumer of a recall of any consumer goods sold
5 to the consumer under certain circumstances; requiring the notice to be given at
6 a certain time, using certain information, and in a certain manner; providing
7 that this Act does not require a merchant to seek information about recalls of
8 consumer goods from certain persons or sources or to request or maintain
9 information about certain consumers; providing that this Act may not be
10 construed to confer a private cause of action on any person to enforce this Act;
11 providing that this Act may not be construed to require a merchant to take any
12 action preempted by or in conflict with federal law; defining certain terms; and
13 generally relating to notices of recalls of consumer goods.

14 BY adding to

15 Article – Commercial Law

16 Section 14–1324

17 Annotated Code of Maryland

18 (2005 Replacement Volume and 2011 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article – Commercial Law**

22 **14–1324.**

23 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
24 **MEANINGS INDICATED.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(2) “CONSUMER” MEANS AN INDIVIDUAL WHO PURCHASES**
2 **CONSUMER GOODS FROM A MERCHANT.**

3 **(3) “CONSUMER GOODS” MEANS GOODS THAT ARE PRIMARILY**
4 **FOR PERSONAL, HOUSEHOLD, OR FAMILY PURPOSES.**

5 **(4) (I) “CUSTOMER LOYALTY CARD” MEANS A PLASTIC OR**
6 **PAPER CARD THAT:**

7 **1. IS ISSUED BY A MERCHANT IN CONNECTION WITH**
8 **A LOYALTY, REWARDS, OR SIMILAR PROGRAM ESTABLISHED BY THE MERCHANT;**
9 **AND**

10 **2. IDENTIFIES THE CARD HOLDER AS A MEMBER OF**
11 **THE PROGRAM.**

12 **(II) “CUSTOMER LOYALTY CARD” INCLUDES:**

13 **1. A REWARDS CARD;**

14 **2. A POINTS CARD; AND**

15 **3. A CLUB CARD.**

16 **(5) “MERCHANT” MEANS A PERSON WHO DIRECTLY OR**
17 **INDIRECTLY OFFERS OR MAKES AVAILABLE TO CONSUMERS ANY CONSUMER**
18 **GOODS.**

19 **(B) A MERCHANT THAT ISSUES A CUSTOMER LOYALTY CARD TO A**
20 **CONSUMER SHALL NOTIFY THE CONSUMER OF A RECALL OF ANY CONSUMER**
21 **GOODS SOLD TO THE CONSUMER IF THE MERCHANT:**

22 **(1) IS NOTIFIED OF THE RECALL BY THE MANUFACTURER,**
23 **WHOLESALE, OR DISTRIBUTOR OF THE CONSUMER GOODS;**

24 **(2) IS ABLE TO IDENTIFY THE CONSUMER WHO PURCHASED THE**
25 **RECALLED CONSUMER GOODS; AND**

26 **(3) MAINTAINS CONTACT INFORMATION OBTAINED IN**
27 **CONNECTION WITH THE CONSUMER’S APPLICATION FOR A CUSTOMER LOYALTY**
28 **CARD THAT CAN BE USED TO NOTIFY THE CONSUMER.**

1 **(C) THE NOTICE REQUIRED UNDER SUBSECTION (B) OF THIS SECTION**
2 **SHALL BE GIVEN BY A MERCHANT TO A CONSUMER:**

3 **(1) AS SOON AS PRACTICABLE AFTER THE MERCHANT RECEIVES**
4 **NOTICE OF A RECALL FROM THE MANUFACTURER, WHOLESALER, OR**
5 **DISTRIBUTOR OF CONSUMER GOODS SOLD BY THE MERCHANT;**

6 **(2) USING THE CONTACT INFORMATION PROVIDED BY THE**
7 **CONSUMER IN CONNECTION WITH THE CONSUMER'S APPLICATION FOR A**
8 **CUSTOMER LOYALTY CARD; AND**

9 **(3) IN THE MANNER SELECTED BY THE MERCHANT.**

10 **(D) THIS SECTION DOES NOT REQUIRE A MERCHANT TO:**

11 **(1) SEEK INFORMATION ABOUT RECALLS OF CONSUMER GOODS**
12 **SOLD BY THE MERCHANT FROM THE MANUFACTURER, WHOLESALER, OR**
13 **DISTRIBUTOR OF THE CONSUMER GOODS OR ANY OTHER SOURCE; OR**

14 **(2) REQUEST INFORMATION FROM OR MAINTAIN INFORMATION**
15 **ABOUT A CONSUMER TO WHOM THE MERCHANT HAS ISSUED A CUSTOMER**
16 **LOYALTY CARD.**

17 **(E) THIS SECTION MAY NOT BE CONSTRUED TO CONFER A PRIVATE**
18 **CAUSE OF ACTION ON ANY PERSON TO ENFORCE THIS SECTION.**

19 **(F) THIS SECTION MAY NOT BE CONSTRUED TO REQUIRE A MERCHANT**
20 **TO TAKE ANY ACTION PREEMPTED BY OR IN CONFLICT WITH FEDERAL LAW.**

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2012.